

Article - Criminal Procedure

[\[Previous\]](#)[\[Next\]](#)

§6–220.

(a) In this section, “custodial confinement” means:

(1) home detention;

(2) a corrections options program established under law which requires the individual to participate in home detention, inpatient treatment, or other similar program involving terms and conditions that constitute the equivalent of confinement; or

(3) inpatient drug or alcohol treatment.

(b) (1) When a defendant pleads guilty or nolo contendere or is found guilty of a crime, a court may stay the entering of judgment, defer further proceedings, and place the defendant on probation subject to reasonable conditions if:

(i) the court finds that the best interests of the defendant and the public welfare would be served; and

(ii) the defendant gives written consent after determination of guilt or acceptance of a nolo contendere plea.

(2) Subject to paragraphs (3) and (4) of this subsection, the conditions may include an order that the defendant:

(i) pay a fine or monetary penalty to the State or make restitution; or

(ii) participate in a rehabilitation program, the parks program, or a voluntary hospital program.

(3) Before the court orders a fine, monetary penalty, or restitution, the defendant is entitled to notice and a hearing to determine the amount of the fine, monetary penalty, or restitution, what payment will be required, and how payment will be made.

(4) Any fine or monetary penalty imposed as a condition of probation shall be within the amount set by law for a violation resulting in conviction.

(5) As a condition of probation, the court may order a person to a term of custodial confinement or imprisonment.

(c) (1) When the crime for which the judgment is being stayed is for a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, the court:

(i) before imposing a period of probation, may order the Maryland Department of Health to evaluate the defendant in accordance with § 8–505 of the Health – General Article;

(ii) if an evaluation was ordered under item (i) of this paragraph, shall review the evaluation before imposing a period of probation; and

(iii) shall impose a period of probation and, as a condition of the probation:

1. shall require the defendant to participate in an alcohol or drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition; and

2. may prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with an ignition interlock system under § 27–107 of the Transportation Article.

(2) When the crime for which the judgment is being stayed is for a violation of any provision of Title 5 of the Criminal Law Article, the court shall impose a period of probation and, as a condition of probation, require the defendant to participate in a drug treatment or education program approved by the Maryland Department of Health, unless the court finds and states on the record that the interests of the defendant and the public do not require the imposition of this condition.

(d) Notwithstanding subsections (b) and (c) of this section, a court may not stay the entering of judgment and place a defendant on probation for:

(1) a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, if within the preceding 10 years the defendant has been convicted under § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article, or has been placed on probation in accordance with this section,

after being charged with a violation of § 21–902 of the Transportation Article or § 2–503, § 2–504, § 2–505, § 2–506, or § 3–211 of the Criminal Law Article;

(2) a second or subsequent controlled dangerous substance crime under Title 5 of the Criminal Law Article, except that the court may stay the entering of judgment and place a defendant on probation for possession of a controlled dangerous substance under § 5–601 of the Criminal Law Article if:

(i) the defendant has been convicted once previously of or received probation before judgment once previously for possession of a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(ii) the court requires the defendant to graduate from drug court or successfully complete a substance abuse treatment program as a condition of probation; and

(iii) the defendant graduates from drug court or successfully completes a substance abuse treatment program as required;

(3) a violation of any of the provisions of §§ 3–303 through 3–307, § 3–309, § 3–310, § 3–315, or § 3–602 of the Criminal Law Article for a crime involving a person under the age of 16 years; or

(4) a moving violation, as defined in § 11–136.1 of the Transportation Article, if:

(i) the defendant holds a provisional license under § 16–111 of the Transportation Article; and

(ii) the defendant has previously been placed on probation under this section for the commission of a moving violation while the defendant held a provisional license.

(e) (1) By consenting to and receiving a stay of entering of the judgment as provided by subsections (b) and (c) of this section, the defendant waives the right to appeal at any time from the judgment of guilt.

(2) Before granting a stay, the court shall notify the defendant of the consequences of consenting to and receiving a stay of entry of judgment under paragraph (1) of this subsection.

(f) On violation of a condition of probation, the court may enter judgment and proceed as if the defendant had not been placed on probation.

(g) (1) On fulfillment of the conditions of probation, the court shall discharge the defendant from probation.

(2) The discharge is a final disposition of the matter.

(3) Discharge of a defendant under this section shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime.

(h) Repealed.

(i) If an individual violates the terms of probation, any time served by the individual in custodial confinement shall be credited against any sentence of incarceration imposed by the court.

[\[Previous\]](#)[\[Next\]](#)